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Robert H. Castellano
Director
Federal Regulation

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May 25, 1995

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RECEIVED
MAY 25 1995
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

RE: Ex Parte Presentation
[CC Docket 94-129]

Dear Mr. Caton:

On May 24, 1995, Ms. Darlene Richeson and I met with Messrs. Wilbert Nixon, Robert Spangler and Ms. Susanne Perrin of the Common Carrier Bureau to discuss AT&T's previously-stated positions in the above-captioned docket.

Because the meeting was held late in the day, two copies of this Notice and the attached informative materials that were discussed in that meeting are being submitted on the following business day to the Secretary of the FCC in accordance with Section 1.1206(a)(2) of the Commission's rules.

Sincerely,

Robert H. Castellano

Attachments

cc: Mr. Wilbert Nixon
Mr. Robert Spangler
Ms. Susanne Perrin

No. of Copies rec'd 0+2
List A B C D E

5/24/95

**DISCUSSION OF CC DOCKET NO. 94-129- POLICIES AND RULES
CONCERNING UNAUTHORIZED CHANGES OF CONSUMER'S LONG
DISTANCE CARRIERS**

- **Florida Public Service Commission**
 - **Voted 12/6/94 to propose revisions to Rule 25-4.118, F.A.C. ,
Interexchange Carrier Selection**
 - **Proposed rule included separation of LOA/inducement**
 - **After reviewing comments, Hearing Officer concluded:**
 - a. **There were legitimate concerns with proposed rule.**
 - b. **Single document requirement would eliminate forms of
inducements which seem to be well received by the public and
beneficial to competition.**
 - c. **Many of the documents causing problems were infirm for reasons
other than the LOA/inducement combination. There does not
appear to have been a significant number of Florida complaints
related to checks/LOAs used by major carriers.**
 - d. **No assurances that a separate LOA document would eliminate
or materially affect the problem**
 - e. **May be legitimate concerns about impact of rule on commercial
free speech.**
 - f. **"The rule purports to require certain statements to be included
in the company's advertising, to prescribe a separate document
form and to require specific type fonts in the text. While the
Hearing Officer believes that the Commission could prescribe
virtually any reasonable format for an LOA as a free standing
regulatory document, not involved in advertising, coupling
form and content requirements with advertising in such a way as
to restrict that medium is problematical. There would be a
colorable claim that the rule as proposed impinged on commercial
free speech."**

- **Florida Rule Passed on May 2, 1995**
 - **Separate document requirement for LOAs removed.**
 - **Standard of "misleading or deceptive" is established and a definition is added.**
 - **Reference to telecommunications company to which service is being changed must identify the actual service provider setting charges**
 - **Specific statement and type font requirement have been removed. Statement that customer's signature will effect a service change is required along with any associated charges or limitations.**
 - **Section on non-English documents is added.**
- **Other State Activity**
 - **California- Enacted 2/24/95**
 - **No separation/LOA requirement.**
 - **Requires that document fully explains nature and extent of action.**
 - **New York**
 - **Enacted 2/27/95**
 - **Much like current FCC rules.**
 - **South Carolina**
 - **Enacted 3/20/95**
 - **Staff is postponing any separation action until final rules are rendered by FCC. Current rules allow for combined LOA/inducement, but establishes that customers must be properly informed of what execution of the LOA means.**
 - **Tariffs must be filed by all carriers/resellers pledging not to indulge in deceptive or misleading marketing practices. Violations could result in withdrawal of state certification.**

LONG DISTANCE COMPANY SWITCHING

Prepared by The NPD Group, Inc. for:

AT&T

METHODOLOGY

BACKGROUND

In connection with the FCC's rulemaking on customer PIC changes in Docket 94-129, AT&T contracted The NPD Group to conduct a research study of its PIC change switching process. The process under investigation is the use of checks combined with LOAs as a monetary incentive to get customers to switch to AT&T. The information gathered will be used to evaluate whether those customers who responded to the offer (signed and cashed the check) understood that by doing so they would be switched to AT&T.

OBJECTIVES

The primary objective of the research project is to answer the following question:

- Did the customers understand that when the check is signed and cashed, it becomes an authorization to switch to AT&T?

METHODOLOGY

AT&T provided The NPD Group with a sample file of 5,000 current AT&T customers that were won back via a check during the latter part of March, 1995. The NPD Group developed a 10-minute telephone questionnaire, programmed it in a CATI (Computer Assisted Telephone Interview) format and fielded it to 1,424 respondents for a total of 500 qualifying interviews. The study was conducted between April 18 and April 23, 1995.

QUESTION SCREENING PROCESS

- | | | |
|---------|---|---|
| Unaided | - | Were there any conditions to signing and cashing the check? |
| | - | What were the conditions? |
| Aided | - | You may have already answered this, but were you aware that by signing and cashing the check you would be switched to AT&T? |

SUMMARY OF FINDINGS

- 497 respondents received a mailing from AT&T in the past 3-4 months. The remaining 3 mailings were received by another member of the household.
- 486 out of the 500 (97%) looked at the mailing themselves. The remaining 14 mailings were looked at by another member of the household.
- All 500 respondents said that the mailing contained a check
 - 495 signed and cashed the check themselves
 - 5 checks were signed by another member of the household.
- In total, 494 respondents out of the 500 interviewed were aware that by signing and cashing the check, they would be switched to AT&T.
 - Unaided Awareness - 334 were aware on an unaided basis that by signing and cashing the check they would be switched to AT&T.
 - Aided Awareness - The remaining 166 respondents were aided; of them, 160 answered that they were aware that they would be switched.

Page	Table	Title
1	1	Q.A-1 - Which is the PRIMARY long distance telephone company you are currently using at home? That is the telephone company that carries your long distance calls made from your home when you call out of your state.
2	2	Q.B - How many months have you been a customer of ...?
3	3	Q.C - Did your household receive any mailing materials from AT&T in the past 3 to 4 months?
4	4	Q.G - Did the mailing contain a check?
5	5	Q.H - Did you sign and cash the check?
6	6	Q.I - Did anyone else in the household sign and cash the check?
7	7	Q.I2 - I spoke to another member of your household who mentioned that you looked at mailing materials from AT&T, and signed and cashed the enclosed check. Is that correct?
8	8	Q.J - Were there any conditions to signing and cashing the check?
9	9	Q.J1 - What were the conditions?
10	10	Q.K - You may have already answered this but, were you aware that by signing and cashing the check you would be switched to AT&T?
11	11	Q.1a - Now, a few questions for classification purposes only. During an average month, about how much does your household spend on the LONG DISTANCE PORTION of your monthly telephone bill?
13	12	Q.1b - Of the amount your household spends on long distance, please tell me approximately what percent is spent on international calls made from your home?
14	13	Q.2 - What is the last level of education you completed?
15	14	Q.3 - Which of the following represents your household's total yearly income before taxes?
17	15	Q.4 - Many people classify themselves as either white, African American, Asian, Hispanic, Native American or some other background. What do you consider yourself?
18	16	Q.5 - Please tell me your age. Please tell me which of the following categories includes your age. You can stop me when I reach your category.
20	17	Q.6 - Sex
21	0	

FLORIDA PUBLIC SERVICE COMMISSION

FLETCHER BUILDING
101 EAST GAINES STREET
TALLAHASSEE, FLORIDA 32399-0850

M E M O R A N D U M

April 20, 1995

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING (RAY6)
FROM: DIVISION OF APPEALS (HEARING OFFICER - SMITH)
RE : DOCKET NO. 941190-TL - PROPOSED REVISIONS TO RULE 25-4.118, F.A.C., INTEREXCHANGE CARRIER SELECTION
AGENDA: MAY ²~~3~~, 1995 - REGULAR AGENDA - RULE ADOPTION - PARTIES MAY NOT PARTICIPATE

RULE STATUS: ADOPTION MAY BE DEFERRED

SPECIAL INSTRUCTIONS: I:\PSC\APP\WP\941190TL.RCM

CASE BACKGROUND

On December 6, 1994 the Commission voted to propose revisions to Rule 25-4.118, F.A.C., Interexchange Carrier Selection, commonly referred to as the PIC (primary interexchange carrier) rule. The proposed changes to the rule would require that every letter of agency (LOA) requesting a change in a customer's selected interexchange carrier be a separate document and could not be combined with other types of promotional material. Such promotional material would include such things as sweepstakes entities, prize claims, checks or charity solicitations.

The rule was formerly noticed in the Florida Administrative Weekly on December 23, 1994. The notice established January 13, 1995 as the date for a request for hearing or filing of comments. January 18, 1995, was set as the hearing date.

Comments on the proposed rule were filed by Telecommunications Resellers Association (TRA); Frontier Communication International, Inc. (Frontier); One Call Communications, Inc. (One Call); LDDS Communications, Inc. and Wiltel, Inc. (LDDS/WilTel); and Homeowners Long-Distance, Inc. (HOLD). In addition, MCI Telecommunications Corporation (MCI) filed a request for hearing on the rule, a "Motion to Reschedule Hearing and a "Motion to Hold Hearing before the Full Commission". AT&T Communications of the Southern States,

DOCUMENT NUMBER-DATE

03988 APR 20 1995

... ..

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Inc. (AT&T) filed a petition for a formal evidentiary proceeding pursuant to Section 120.54(17), Florida Statutes, the so-called "draw-out" provision.

On January 17, 1995, Chairman and Prehearing Officer, Commissioner Clark, issued Order No. PSC-95-0092-PCO-TI, denying MCI's motions to reschedule the hearing and have the matter heard by the full Commission.

On January 18, 1995, an informal rule hearing pursuant to Section 120.54(3), Florida Statutes, was conducted by the Division of Appeals hearing officer. Parties participating included Sprint Communications Company Limited Partnership (Sprint); AT&T; MCI; LDDS and the Commission staff. All parties were given full opportunity to comment on the rule and to inquire into the positions of the staff and other parties. All parties were also given the opportunity to file post-hearing comments. Sprint, AT&T, MCI, LDDS/WilTel and the Commission staff took advantage of this opportunity and submitted post-hearing comments.

On March 7, 1995, the Commission considered the staff's recommendation and voted in to deny AT&T's request for a formal evidentiary proceeding. The Commission's decision was formalized in Order No. PSC-95-0374-FOF-TI, issued March 15, 1995.

Thereafter, on March 17, 1995, the hearing officer's proposed final version of the rule was distributed to all parties for further comment. Responses on the proposed final version were received from AT&T, HOLD, MCI and the staff of the Commission, including both Communications staff and Consumer Affairs staff.

DISCUSSION

ISSUE 1: Should the Commission adopt hearing officer's recommended final version of Rule 25-4.118, F.A.C. as set out in Attachment 1?

RECOMMENDATION: Yes.

STAFF ANALYSIS: As originally proposed Rule 25-4.118(3)(b), would have been modified as follows:

(3)(a) The ballot or letter submitted to the interexchange company requesting a PIC change shall include, but not be limited to, the following information (each shall be

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separately stated):

1. Customer name, phone/account number and address;
2. Company and the service to which the customer wishes to subscribe;
3. Statement that the person requesting the change is authorized to request the PIC change; and
4. Customer signature.

(b) Every letter of agency, ballot or document by means of which a customer can request a PIC change shall be used solely for that purpose. Every such letter of agency, ballot or document shall identify the telecommunications company to which the service is being changed. The page of the letter or ballot containing the customer's signature shall contain the following statement directly above the customer's signature in bold face type at least twice the size of any other text on the page: "I understand that my signature on this form will result in my interLATA long distance telecommunications service being provided by (insert here the name of FPSC certificated interexchange company)."

(bc) If a PIC change request results from either a customer initiated call or a request verified by an independent third party, the information set forth in (3)(a)1.-3. above shall be obtained from the customer.

(ed) Ballots or letters will be maintained by the IXC for a

RULE HEARING AND COMMENTS

At the rule hearing, staff witness, Alan Taylor, indicated that staff believed rule amendments necessary "to reduce the number of PIC changes that occur without a subscriber's consent." (TR 10) Staff further indicated that in analyzing slamming complaints that appeared that in many cases consumers did not realize that they were signing a document that would result in their long-distance service being changed to another carrier. (TR 11) Staff indicated that PIC change complaints were up during 1994 over 1993 and that at least for first five months of 1994, there was a rash of complaints relating to sweepstakes and contest entry forms which resulted in a PIC change. (TR 14 - 15)

While commentators and parties participating in the hearing generally agreed unintended PIC changes were a problem, they did not agree that the proposed rule was the best alternative at this time. (TR 54) As was pointed out at the agenda at which the

POST-HEARING COMMENTS

The four companies filing post-hearing comments, AT&T, MCI, LDDS/WilTel, and Sprint, were unanimous in urging the Commission to delay adoption of the rule until the FCC has acted. AT&T further reiterated that the rule as proposed would be "unduly restrictive of interexchange carrier marketing activities in Florida." (p. 4) Specifically, AT&T opposed the separate document requirement which would preclude its use of a check as an inducement to change carriers. AT&T asserted that the check instrument had not been shown to be deceptive and that it was unaware of a single complaint by a Florida consumer claiming to be misled by the inducement. AT&T further asserted that the requirement of the proposed rule that bold-faced type at least twice the size of other text on the page of the inducement could lead to absurd results, e.g. huge type fonts which would fill up an entire page with one sentence. (pp. 10-14)

AT&T reiterated its belief that the restrictive effects of the proposed rule would be contrary to the Commission's mandate in Chapter 364 to encourage competition in the telecommunications market place. AT&T concluded that the testimony at hearing had not produced evidence of a single complaint against AT&T resulting from its use of a check LOA; that complaints were largely directed to three specific IXC's not including AT&T and that staff indicated that some of the problem LOAs did not involve inducements but failure to comply with the provisions of existing Rule 28-4.118(3)(a), F.A.C., which prescribes the form and content of LOAs. AT&T concluded "... it would appear from the record that, if the proposed rule revisions are adopted, an entire industry would be penalized for the malfeasance of a relatively few carriers, and customers will be deprived of the benefits of competition that the legislature has sought to preserve." (p. 16)

AT&T again expressed its concern that the rule as formulated might be an unlawful restriction on commercial speech. The company states that there is no record of complaints, either at the Commission or the FCC, relating to the millions of check-endorsement LOAs that AT&T has sent out. AT&T thus concludes that it is debatable whether the proposed restrictions would serve any state interest, specifically the elimination of slamming, and it is not evident that the rule proposal is the least restrictive measure available, as required by the constitutional test for governmental limitations on commercial speech.

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Unlike other parties submitting post-hearing comments, Sprint indicated that it "fully supports separating the letter of agency ("LOA") from any inducement." (p. 2) Sprint further noted that "combining the LOA with promotional inducements has the potential for outright deception, or at the very least, for leading to misunderstanding between consumers and carriers." (p. 3) Sprint also took issue with the staff's reference to Sprint as to "one of the top three offenders of unauthorized PIC changes" during the informal hearing. (p. 4) Sprint noted that according to the PSC's own statistics, Sprint had fewer complaints than other major carriers in 1993, and that its overall complaint rate was down. Sprint also claimed that the staff was in error by linking Sprint to Matrix and GE Exchange as its marketing agent and that these companies should be held accountable for complaints directed to their LOA inducements. (pp. 5-6)

LDOS/WilTel's post-hearing comments simply urged the Commission await the FCC's final rule to avoid costly and unnecessary conflicts between jurisdictions.

The staff's comments stated that its post-hearing analysis of 15 percent of the complaints against MCI, AT&T, WilTel and Sprint indicated that there were two complaints, one against MCI, and one against Sprint which dealt with check inducements. Staff further noted that the FCC's proposed rule also contained a requirement that the LOA be a separate document the sole purpose of which would be to authorize a PIC change. Staff further stated that, in any case, given the high complaint rate in Florida, it might be appropriate to have Florida specific PIC requirements, even there were some conflict with the FCC national regulations. Staff agreed with the parties' comments at hearing that specific language and type face requirements might be unnecessary and produce undue hardship for advertising. The staff modified its rule proposal as follows:

(3)(a) Every letter of agency, ballot or document by means of which a customer can request a PIC change shall be used solely for that purpose. Every such letter of agency, ballot or document shall identify the telecommunications company to which the service is being changed. The page of the letter or ballot containing the customer's signature shall also contain clear and unambiguous language which confirms that the customer's interLATA long distance telecommunications service will be changed if the letter or ballot is signed. Such language must be printed in type that is of

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sufficient size to be clearly legible. If any part of a letter or ballot is in a non-English language, the letter or ballot itself must contain all relevant information in the same non-English language.

Staff's rule also embodies the provision requiring that inducement printed in part in a non-English language must contain all essential information in the same language.

HEARING OFFICER'S PROPOSED FINAL VERSION

Based on the various comments, hearing testimony and exhibits and rule drafts and other submissions by the parties and staff, the Hearing Officer formulated a proposed final version of the rule. The proposed final version built on the suggested modifications of MCI and staff, adding modified or additional language, shown in shading, as follows:

Every letter of agency, ballot or ~~document~~ document by means of which a customer can request a PIC change shall be used solely for that purpose. Every such letter of agency, ballot or document shall clearly identify the telecommunications company to which the service is being changed. The page of the document letter or ballot containing the customer's signature shall contain a statement that the customer's signature or endorsement on the document will result in a change of the customer's long distance service provider ~~to the following~~ the following statement above the customer's signature in bold face type at least twice the size of any other text on the page. "I understand that my signature on this form will result in my interLATA long distance telecommunications service being provided by (insert here the name of FCC-certificated interexchange company)." Such statement shall be clearly legible and printed in type at least as large as any other text on the page. If any such document is not used solely for the purpose of requesting a PIC change, then the document as a whole must not be misleading or deceptive.

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believe the document is written in a non-English language other than English, then the document must contain all relevant information in the same non-English language.

COMMENTS ON THE PROPOSED FINAL VERSION

HOLD, AT&T, MCI and Staff responded to the Hearing Officer's proposed final version of the rule. HOLD expressed its support for the rule as modified, reiterating its belief that the heart of the LOA problem has been lack of clarity in informing the customer that a PIC change is being authorized. (p.2) HOLD believes the rule will accomplish that purpose. AT&T also supports the final version, but suggested the addition of language to clarify that the LOA document must identify the new telecommunications carrier "even if that telecommunications provider uses the facilities of another carrier." The obvious purpose of this change is to "ensure that customers who elect service provided by resellers . . . clearly understand that the election . . . will result in their service being provided by the reseller and not by the underlying carrier" (p.2) It appears to be common practice for resellers to trade on the good name of their underlying service provider, whose facilities are actually being used in long distance service. MCI simply expresses its support for the proposed final version, finding it "a significant improvement over the rule as originally proposed". (3/25/95 letter).

Staff remains concerned that anything short of a separate LOA requirement may not be effective to address the problem of unknowing or unintentional PIC changes. Communications staff points out that the proposed rule provision which states that the LOA document must "explain the consequences of that change for the customer" is ambiguous. Staff states its belief that long distance providers will want to know what they must explain, e.g. that the LEC may charge for the PIC change or that there is another underlying facilities-based carrier. Staff also comments that the requirement for a type face "at least as large as any other text on the page" can be undermined by putting small text on one side of the page without any other writing. Communications staff concludes that the rule may be difficult to enforce. Someone will have to interpret what misleading and deceptive will mean in a given context.

Consumer Affairs staff also expresses concern that the proposed final version of the rule may not be adequate to address

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PIC change problems encountered. Staff cites to statistics indicating 214 slamming complaints in the fourth quarter of 1994. It is unclear how many of these were generated by LOAs combined with other inducements, but staff concludes "we can find no justification for eliminating the wording 'shall be used solely for that purpose' from the rule. Consumer Affairs staff thus remains in favor of a separate LOA requirement. However, it is conceded that check inducements have not been a major source of slamming complaints. Consumer Affairs staff would not oppose wording which allowed such checks within the definition "single purpose" document if wording on the check indicated that its sole purpose was to effect a PIC change.

Consumer Affairs staff comments analyze several documents which have lead to slamming complaints and concludes that the proposed "misleading and deceptive" standard will be too broad to effectively enforce. Staff opines that "[t]here seems to be no compelling need for an IXC to combine an LOA with another type of document." Examples of such documents are appended to this recommendation as Attachment 2.

HEARING OFFICER'S GENERAL CONCLUSIONS AND FINAL VERSION OF RULE

As summarized in the following, the Hearing Officer has concluded that the rule as proposed should be modified.

Slamming, or unauthorized PIC changes, remains a major source of complaints about long distance service in Florida. There were approximately 1000 in 1994.

Some portion of those complaints, at least for the first 5 months of 1994 involved "confusion about an LOA". These included sweepstakes and contest entry forms, but also included other documents such as offers for airline frequent flyer miles, contributions to a charity and documents which purport only to be a "Letter of Agency".

Check endorsement LOAs, being a single document would be prohibited by the rule as proposed. It does not appear that there have been a significant number of Florida complaints related to check LOAs used by the major carriers. In this rulemaking proceeding, one was identified for MCI and one for Sprint. None were specifically identified for AT&T.

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Some problems with LOAs resulted from failure to include information currently required by Rule 25-4.118 (3) (a), F.A.C, but other LOAs resulting in complaints did contain that information.

A great deal of long distance traffic is interstate in nature and major carriers have a vigorous advertising campaign for that market, including the type of inducements plus LOAs, some of which have lead to complaints in Florida. Apparently, carriers such as AT&T, MCI and Sprint and large resellers do not necessarily tailor their advertising to local markets.

PIC changes affecting interstate traffic are governed by FCC rules. The FCC has promulgated a rule which would require a separate LOA document to be used only for effecting a PIC change, much as the original rule proposed by the Commission. Affected parties such as AT&T and MCI have filed comments with the FCC opposing the rule as being anti-competitive, restrictive of legitimate marketing practices, economically burdensome and constitutionally infirm as impairing commercial speech. It is uncertain when the FCC will act on its proposed rule, although the comment period has passed and is now up to FCC staff to make a recommendation.

Parties critical of the Commission's proposed rule raised essentially the same arguments as presented to the FCC, with some Florida specific exceptions, namely the mandate in Chapter 364 that the Commission foster competition in the telecommunications market where in the public interest.

Taking the presentations of the parties at face value, the Hearing Officer concludes that are legitimate concerns with the proposed rule. The single document requirement of the rule as proposed would eliminate forms of inducements which seem to be well received by the public and beneficial to competition, specifically check-LOAs, and perhaps others which have not been the source of complaints. Moreover, it appears that many of the documents causing problems were infirm for reasons other than the fact that the LOA was combined with an inducement. Some don't meet the requirements of existing LOA content, or were confusing even if a single document. Tailoring such promotions solely to Florida could affect the availability of incentives apparently desired by the public and would necessarily have some impact on cost of advertising. Generally, two pages cost more than one.

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While making the LOA a separate document has a certain appeal as a straight forward and objective measure, there are no assurances that it would eliminate or materially affect the problem of persons being lured to sign up for a new carrier in pursuit of some other reward or inducement. In fact, the examples of inducements complained about do generally indicate on their face that a change of telephone service is involved. To some extent, no matter what form the advertising takes, some will see a misleading inducement where others see a clearly stated invitation.

The Hearing Officer also concludes that there may be legitimate concerns about the impact of the rule as proposed on commercial free speech. The rule purports to require certain statements to be included in the company's advertising, to prescribe a separate document form and to require specific type fonts in the text. While the Hearing Officer believes that the Commission could prescribe virtually any reasonable format for an LOA as a free standing regulatory document, not involved in advertising, coupling form and content requirements with advertising in such a way as to restrict that medium is problematical. There would be a colorable claim that the rule as proposed impinged on commercial free speech.

The Commission exercises limited regulatory oversight of the IXC's in Florida given the evolution of a competitive market. Although consumer protection from abusive practices such as slamming remains a necessity, a large number of competitors have been certified to compete for available business. The Commission is thus faced with the task of deciding how to balance the interests of consumers and competitors where specific practices of IXC's are called into question. In this case, the Hearing Officer believes that the interests of competition and consumers can be served by a rule that is less restrictive than the rule as proposed. The problem, as the Staff correctly points out, is crafting a rule that is explicit and enforceable. Attachment 1 is the Hearing Officer's attempt at that task, embodying comments received during and post-hearing and in response to the proposed final version. The rule is less restrictive than the proposed FCC rule in that it has no separate document requirement. Presumably, it would not cause any major revamping of advertising to fit Florida standards.

A summary of the major changes to the rule (shown in shaded text) is as follows:

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1. The separate document requirement for LOAs has been removed;
2. The reference to the telecommunications company to which service is being changed must identify the actual service provider setting charges, not an underlying facilities based carrier whose service is resold;
3. The specific statement and type font requirement have been eliminated. Instead a statement that the customer's signature will effect a service change is required along with a statement of what comes with it, to wit, that there can only be one service provider per number and that the LEC may charge for the switch;
4. A standard of "misleading or deceptive" for the document is established and a definition added.
5. A section on non-English documents is added.

ATTACHMENT 1

25-4.118 Interexchange Carrier Selection

(1) The primary interexchange company (PIC) of a customer shall not be changed without the customer's authorization. A local exchange company (LEC) shall accept PIC change requests by telephone call or letter directly from its customers.

(2) A LEC shall also accept PIC change requests from a certificated interexchange company (IXC) acting on behalf of the customer. A certified IXC that will be billing in its name may submit a PIC change request, other than a customer-initiated PIC change, directly or through another IXC, to a LEC only if it has certified to the LEC that at least one of the following actions has occurred prior to the PIC change request:

(a) the IXC has on hand a ballot or letter from the customer requesting such change; or

(b) the customer initiates a call to an automated 800 number and through a sequence of prompts, confirms the customer's requested change; or

(c) the customer's requested change is verified through a qualified, independent firm which is unaffiliated with any IXC; or

(d) the IXC has received a customer request to change his PIC and has responded within three days by mailing of an information package that includes a prepaid, returnable postcard and an additional 14 days have past before the IXC submits the PIC change to the LEC. The information package should contain any information required by Rule 25-4.118(3).

CODING: Words underlined are additions; words in ~~struck-through~~ type are deletions from existing law.

(3) (a) The ballot or letter submitted to the interexchange company requesting a PIC change shall include, but not be limited to, the following information (each shall be separately stated):

1. Customer name, phone/account number and address;
2. Company and the service to which the customer wishes to subscribe;
3. Statement that the person requesting the change is authorized to request the PIC change; and
4. Customer signature.

(b) ~~Every letter of agency, ballot or written document by means of which a customer can request a PIC change shall be used solely for that purpose. Every such letter of agency, ballot or document shall clearly identify the carrier, the telecommunications company to which the service is being changed, the facilities of another carrier. The page of the letter or ballot containing the customer's signature shall contain a statement that the customer understands that the change of service provider will result in a change of service provider and that the customer has no objection to the change of service provider. The carrier shall print the following statement above the customer's signature in bold face type at least twice the size of any other text on the page. "I understand that my signature on this form~~

CODING: Words underlined are additions; words in

1 ~~will result in my interLATA long distance telecommunications~~
2 ~~service being provided by [insert here the name of FPSC~~
3 ~~certificated interexchange company].~~ Such statement shall be
4 clearly legible and printed in type at least as large as any other
5 text on the page. If any such document is not used solely for the
6 purpose of requesting a PIC change, then the document shall not
7 must not be misleading or deceptive, nor be based on the
8 the terms "misleading or deceptive" mean that the style, format, or
9 style, format or content of the document, if viewed by a person
10 apparent to the person signing the document, that the purpose of the
11 signature was to authorize a PIC change, or it would be unfair to
12 the customer who the new long distance service provider, nor
13 that the customer's selection would solely rely on the number of the
14 and there could only be one long distance service provider for each
15 number, or that the customer's local exchange could only be used
16 to switch service provider. ~~Such statement shall be~~
17 ~~written in a language other than English.~~
18 ~~Consistent with information available to the customer.~~

19 (c) If a PIC change request results from either a customer
20 initiated call or a request verified by an independent third party,
21 the information set forth in (3)(a)1.--3. above shall be obtained
22 from the customer.

23 (d) Ballots or letters will be maintained by the IXC for a
24 period of one year.

25 (4) Customer requests for other services, such as travel card

CODING: Words underlined are additions; words in
struck-through type are deletions from existing law.

1 service, do not constitute a change in PIC.

2 (5) Charges for unauthorized PIC changes and higher usage
3 rates, if any, over the rates of the preferred company shall be
4 credited to the customer by the IXC responsible for the error
5 within 45 days of notification. Upon notice from the customer of
6 an unauthorized PIC change, the LEC shall change the customer back
7 to the prior IXC, or another of the customer's choice. The change
8 must be made within 24 hours excepting Saturday, Sunday and
9 holidays, in which case the change shall be made by the end of the
10 next business day. In the case where the customer disputes the
11 ballot or letter, the IXC appearing on the ballot/letter will be
12 responsible for any charges incurred to change the PIC of the
13 customer.

14 (6) The IXC shall provide the following disclosures when (
15 soliciting a change in service from a customer:

16 (a) Identification of the IXC;

17 (b) That the purpose of visit or call is to solicit a change
18 of the PIC of the customer;

19 (c) That the PIC can not be changed unless the customer
20 authorizes the change; and

21 (d) Any additional information as referenced in Rule 25-
22 24.490(4).

23 Specific Authority 350.127(2), F.S.

24 Law Implemented 364.01, 364.19, 364.285, F.S.

25 History: 3/4/92.



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ATTACHMENT 2

EXAMPLES OF LOA DOCUMENTS

ATT

2

 <p>AT&T</p>	<p>ENDORSEMENT OF THE CHECK SWITCHES YOUR LONG DISTANCE SERVICE TO AT&T</p> <p><small>Attention: Switched lineholders: Check must be endorsed by payee to be valid for switching. Amount not to exceed \$500. If your address or telephone number is printed incorrectly, please make changes on the reverse side.</small></p>	<p>NO. 00000001 DATE August 26, 1994</p>	<p>7-94</p>
<p>999 666 1212 000 L&S PAY TO THE ORDER OF</p>	<p><u>Twenty-Five and 00/100 DOLLARS</u></p>		
<p>JOHN Q. SAMPLE OPTIONAL, ADDRESS LINE OPTIONAL, ADDRESS LINE ONE, CORPORATE WOODS DRIVE BRIDGESTON MO 63044</p>	<p><i>[Signature]</i></p>	<p>L&S</p>	
<p>⑈000000001⑈ ⑆091901⑆5⑆⑆</p>	<p>70 261 7⑈</p>	<p><small>AT&T COMMUNICATIONS Corporate Sales Dept., Overl. Div., MN 55422</small></p>	

Yes, switch me to AT&T Dist-1 Long Distance Service.

X

Signature _____
My signature authorizes you to switch my service to AT&T and apply my local telephone company's rate of my switch to change to AT&T Long Distance Service. I understand that only one long distance company rate is designated for the telephone number listed on the form, and that my selection will apply only to that number. My local telephone company may charge me a fee to switch my long distance service. If so, it will appear on a future phone bill. CHECK VOID IF RETURNED.

If your address or telephone number is printed incorrectly on the form of this check, please make changes here:

Telephone Number

Address